

# STEPHENS & BAUGH, LLC

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July 9, 2009

Received & Inspected

JUL 10 2009

FCC Mail Room

Ms. Marlene H. Dortch  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: In the matter of Request for Review by Independence High School  
Services of Universal Service Administrator, Docket Number 02-06

Dear Ms. Dortch:

This office represents Independence: A Family of Services ("IFS") which is a non-profit organization that operates Independence High School in Newark, New Jersey. Independence requests a review of a decision of Universal Service Administrative Company ("USAC") that found IFS to be in violation of the competitive bidding process. IFS appeals this decision and requests its funding be reinstated. The appeal of USAC's decision is enclosed.

If I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

STEPHENS & BAUGH, LLC



BY: DAVID BROWN

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Before the Federal Communications Commission Washington, D.C.

Received &amp; Inspected

In the Matter of )

JUL 10 2009

)  
 Appeal of Schools and Libraries Division decision )  
 to rescind funding to Independence: A Family )  
 of Services )

FCC Mail Room

Schools and Libraries Universal Service )

CC Docket No. 02-06

**Applicant Name:** Independence: A Family of Services ("Independence High School")**Entity Number:** 227606**Funding Request Numbers:** 835388, 835401, 835419, 835450**Form 471 Application Number:** 316756**SPIN Number:** 143024755, 143026575**Contract Number:** 10768, 10769, 10770, 10772**Service Order:** Internet Access, Internet Connection

Independence High School ("IFS") requests Federal Communications Commission (FCC) review of a decision of the Schools and Libraries Division of the Universal Service Administrative Company ("USAC"). IFS seeks the reversal of USAC's decision to rescind IFS's funding in full due to IFS's alleged violation of the E-rate competitive bidding process. IFS maintains the position that it did not have a relationship with service provider Diversified Computer Solutions ("DCS") prior to submitting its Form 470 and technology plan, that IFS fully complied with the E-rate bidding process, and that IFS completed the technology plan, Form 470 and Form 471 independent of the service provider's input.

## I. BACKGROUND

Independence: A Family of Services ("IFS") is a non-profit organization that operates a secondary school, Independence High School, in Newark, New Jersey. Leroy Stafford, IFS's then Chief Financial Officer ("CFO"), drafted a technology plan, Form 470, and Form 471 which was submitted to the Schools and Libraries Division of the Universal Service Administrative Company ("USAC") in order to participate in the E-Rate program. Subsequent to IFS's submissions, USAC declared IFS to be in violation of the competitive bidding process and ultimately rescinded its funding and ultimately sent a demand for payment to IFS.

A string of correspondence took place between USAC and IFS regarding the integrity of IFS's Forms 470 and 471. The first of these letters, dated October 6, 2003<sup>1</sup>,

<sup>1</sup> Mr. Leroy Stafford, IFS's former Chief Financial Officer, was terminated from his employment at IFS in the early part of 2008. Mr. Stafford did not depart on "good terms", so communication with Mr. Stafford has been strained, so the files and correspondence maintained by Mr. Stafford while employed at IFS are incomplete. Mr. Stafford was the person at IFS responsible for handling the E-rate program. IFS has not been able to contact Mr. Stafford to confirm any information or the completeness of the files maintained by

was addressed to Mr. Earl Baderschneider, a selective reviewer, of the Program Integrity Assurance ("PIA") review team, Schools and Libraries Division. (See Exhibit A). In this letter, IFS indicated Diversified Computer Solutions ("DCS") was chosen because it was the sole service provider that responded to IFS's request for services.

On November 21, 2003, USAC requested additional information to allow it to complete its review of its E-rate Selective Review Information Request for funding year 2002. (See Exhibit B). IFS responded to this request and provided USAC the information relating to its hardware, professional development, software, retrofitting, maintenance and budget.

Despite IFS's compliance with the E-rate application process and its general responsiveness to USAC's requests, USAC cited IFS in violation of program rules in a letter dated March 16, 2004, and requested full rescission of IFS's funding requests. (See Exhibit C). USAC concluded that DCS was improperly involved in the competitive bidding process due to alleged similarities in Forms 470 and technology plans among applicants associated with DCS. IFS responded to this allegation in a letter appealing USAC's decision, dated May 13, 2004, stating, that IFS has "not been in contact with any of the providers' clients concerning there's or our participation in the E-rate program once we were approved" and that "all contact with potential providers came from their viewing our Form 470 posted on the web site." (See Exhibit D). USAC denied IFS's appeal, in a letter dated October 12, 2004, and once again cited similarities in the Form 470 and technology plans submitted for six competitive bidding questions which indicate that DCS as service provider. (See Exhibit E).

IFS received multiple requests from USAC's Program Integrity Assurance ("PIA") review team for additional information to determine whether IFS was in compliance with E-rate program rules. These letters were received on September 24, 2004; October 13, 2004; November 4, 2004; and then another on November 17, 2008<sup>2</sup>. (See Exhibit F). In the November 17<sup>th</sup> letter, USAC once again cited a violation of the competitive bidding process based upon similarities in Forms 470 and 471 and/or other documents submitted by other billed entities that have DCS as a service provider.

IFS received a letter dated April 30, 2009 which demanded payment of the funding rescinded by USAC. (See Exhibit G). Stephens & Baugh, IFS's counsel, drafted a letter to Michael Deusinger of Schools and Libraries Division of USAC, requesting copies of evidence relied upon by USAC in making its determination regarding IFS's funding, to which USAC did not respond. (See Exhibit H). On June 1, 2009, IFS received a second demand for payment. (See Exhibit I). David Brown, an associate at Stephens & Baugh who represents IFS, learned the details underlying the

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him. Per the records available, the October 6, 2003 letter appears to be the first request from USAC to review IFS's E-Rate submissions.

<sup>2</sup> IFS acknowledges the extended span of time from the November 4, 2004 letter from USAC and the November 17, 2008 letter. Due to the state Mr. Leroy Stafford left the files he maintained, IFS currently cannot identify any correspondence between the November 4, 2004 and November 17, 2008 time period.

similarities cited by USAC in a discussion with Michael Deusinger. Mr. Deusinger stated that a consultant by the name of Bob Farano was the link to all the billed entities that shared similarities in Forms 470 and 471 in this matter.

## II. DISCUSSION

A key component of the E-rate program is the open and fair nature of the competitive bid process. The goal of competitive bidding is to have as many bidders as possible respond to a Form 470, so that the applicant can receive better service and lower prices. The competitive bidding process must be fair and open. "Fair" means that all bidders are treated the same and that no bidder has advance knowledge of the project information. "Open" means there are no secrets in the process – such as information shared with one bidder but not with others – and that all bidders know what is required of them. The applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way.

Form 470 opens the competitive process for the services desired. After the technology plan has been developed and the applicant has identified the products and services needed to implement the plan, the applicant submits Form 470, which is then posted to the USAC website to notify service providers that the applicant is seeking the products and services identified. The applicant must complete Form 470 without the assistance or interaction of the potential service providers in order to keep an open and fair competitive bidding process. If a service provider is involved in preparing the Form 470 and that service provider appears on the associated Form 471, this will taint the competitive process and lead to denial of funding requests that rely on that Form 470.

USAC concluded that IFS violated the fair and open nature of the competitive bidding process by improperly involving DCS in the bidding process. In three separate correspondence/communications to IFS, March 16, 2004, October 12, 2004, and November 17, 2008, USAC concludes that routine reviews performed by USAC revealed violation of program rules. The basis of USAC's determination was IFS's Forms 470 and 471 shared similarities with other billed entities that DCS was chosen as the service provider.

It is IFS's position that the 470 and 471 Forms and the technology plans were submitted to USAC independent and without involvement of DCS, IFS's initial service provider. In a telephone conversation with Michael Deusinger of the Schools and Libraries division of the USAC on or about June 22, 2009, IFS learned that the billed entities that shared similarities in their Forms 470 and 471 and technology plans worked with Bob Farano, a consultant who worked with secondary schools. IFS was not aware that Mr. Farano had a relationship with DCS. IFS has maintained this position all along. In a letter dated, May 13, 2004, Leroy Stafford<sup>3</sup>, then Chief Financial Officer, responds to

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<sup>3</sup> Mr. Stafford is no longer employed with IFS, so IFS has not been able to currently communicate with him. However, IFS's position remains that it did not have any relationship with any service providers prior

the USAC's conclusion of similarities by stating that he has "not been in contact with any of the providers' clients concerning there's or our participation in the E-Rate program once we were approved." "At no time did any vendor assist in the development or preparation of any documents submitted to SLD. All contact with potential providers came from their viewing our Form 470 posted on your web site." (See Exhibit D).

### III. CONCLUSION

Pursuant to the requirements of the E-rate program, the applicant must complete Form 470 without the assistance or interaction of potential service providers in order to keep an open and fair competitive bidding process. The involvement of a service provider in preparing Form 470 will taint the competitive process and lead to the denial of funding requests. IFS complied with this requirement and did not involve DCS in the preparation Form 470, 471 or the technology plan. Any similarities in the Forms may be attributed to the relationship Mr. Farano had with DCS. IFS worked with Mr. Farano without knowledge of any relationship with DCS and any Forms submitted were in compliance with the open and fair competitive bidding process. Therefore, IFS's funding that has been rescinded should be reinstated.

Respectfully submitted this 9<sup>th</sup> day of July, 2009.

STEPHENS & BAUGH, LLC

A handwritten signature in black ink, appearing to read "David Brown", with a long horizontal flourish extending to the right.

BY: DAVID BROWN

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to its Form 470 submission and did not have any contact with any service provider prior to its submission and completed the Form 470 independent of DCS input.

# Exhibit A



Independence: A Family of Services, Inc.

*"Providing a pathway where there was none."*

Administrative Office:  
179 Van Buren St.  
Newark, NJ 07105  
phone: 973-589-0959, fax: 973-589-1519  
email: ifs71@aol.com

Timothy L. Carden, Chairperson  
Guy McCombs, Vice Chairperson  
Dudley Benoit, Treasurer  
Mildred Crump, Secretary  
Margaret L. Woods, President/CEO  
Sandra Bograd, Member  
Steven Brisgel, Member

October 6, 2003

Mr. Earl Baderschneider – PIA Selective Review  
Schools and Libraries Division  
80 S. Jefferson Road  
Whippany, NJ 07981

Re: Independence High School 471 Application Number – 316756

Dear Mr. Baderschneider:

The following is provided in responding to your request concerning the competitive bidding and vendor selection process.

1. As indicated on our Form 470, we do not have a written request for proposal. We indicated what we were looking for on the Form 470. When we were contacted by service providers participating in the E-rate program, we planned to provide more detail about what we wanted to accomplish and the related equipment we thought was required.
2. After the Form 470 was posted, we received only one response from a service provider, Diversified Computer Solutions (DCS), who expressed a desire to work with our small school. We were impressed with how they indicated they were going to approach solving our technology needs. They took the time to visit our location, discuss our objectives and goals, and advise us on our situation. Following our discussions, they prepared a proposal to indicate how they would address and solve our needs. No other providers contacted us to participate in the competitive bidding process. Left with only one provider interested in our school, we accepted the bid of DCS.
3. Based on the time they spent working with us on our goal and submitting a proposal with references, we selected DCS as our provider. Prior to accepting the proposal, we called the references provided and received positive statements about them as a company and their work. From the references we were told they

Independence High School 471 application Number – 316756

November 6, 2003

Page -2-

are a company dedicated to service and had a good reputation in the industry. They told us they were interested in assisting us in meeting our goals and wanted to be with us as our school and its needs grew.

4. See the attached information with signatures and dated quotes related to our agreement.
5. We have no consulting agreements in existence.
6. There is no correspondence between our service provider, consultants and the school regarding the competitive bidding process and the application process.

Enclosed is the other related information requested. Thank you for your assistance in allowing the extension of time for this filing. Should you require additional information, I can be reached at (973) 589-0959 or by the E-mail address we have been using.

Sincerely,



LeRoy W. Stafford  
Chief Financial Officer

Enclosures



# Exhibit B



**Universal Service Administrative Company**  
Schools & Libraries Division

CASE SR-2002-BEN#227606

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Date: November 21, 2003  
To: LeRoy Stafford  
Entity: Independence High School  
Fax #: 973-589-1519  
Sender: Earl Baderschneider  
Phone: 973-428-7341  
Fax: 973-599-6515  
E-mail: ebaders@sl.universalservice.org  
Subject: Funding year 2002 selective review

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This fax is a follow up to the information you provided in reference to the E-Rate Selective Review Information Request Funding Year 2002. Please provide the information requested by the close of business **December 2, 2003**. If we do not receive the information by that date, your application will be reviewed based on the information we currently have, which may impact the approval of your application

**Hardware:**

- Please provide a one-page summary of the resources and strategies you have available for acquiring hardware.
- Please list the number of servers and network drops you are requesting as well the hardware you currently have in place.

**Professional development:**

- Please provide a one-page summary of the resources and strategies you have for professional development addressing the questions listed below.
- Do you have a training staff? Who provides the training? Who receives the training and what are they trained on? Is a train-the-trainer mode of training used? Are there Education Service Agencies that provide training?

**Software:**

- Please provide a one-page summary of the resources and strategies you have available for acquiring software.

- List the software applications you currently have, both administrative and educational. Also, list any site licenses you may currently have as well as the software you plan on obtaining.

**Retrofitting:**

- Your investment in retrofitting appears low in relation to the level of network resources you are requesting. Have you already retrofitted your buildings for technology (prior to 2002)? If so, can you briefly document the dollar amount and/or the work done? Also please indicate if this is a relatively new school (past five years or so). If not, please provide a one-page summary of the resources and strategies you have available to retrofit your schools for technology.

Retrofitting refers to removing asbestos, adding air conditioning, upgrading wiring, building server closets, knocking down or drilling thorough walls, or anything else done in order to prepare buildings for new technology.

**Maintenance:**

- Please document your plans for maintaining your equipment both old and new as well as ineligible hardware.
- Is the equipment under warranty?
- Do you have a maintenance contract?
- Do you have a maintenance staff who maintains the equipment? If so please include their salaries on the Item 25 worksheet if you have not already done so.

**Budget:****Retroactive**

For services/products you have paid for and have already received during Funding Year 2002-2003:

- Subtract the commitment amount from the pre-discount cost for each FRN.
- Separate the FRNs into service categories (telecommunications, Internet access and internal connections) and total the results in each category.
- Enter these amounts in the Item 25 Worksheet Summary, page 11, Section I-B in the respective service category under the Retroactive column.
- Sum items I-B, 1a. through 3a. and enter this amount in 4a.
- **Since you have indicated that you already paid for and received these services in Funding Year 2, please substantiate your payment of the "applicant share". An operating budget may be sufficient, if that budget clearly identifies the year(s) to which it applies, and clearly points to the budget line and amount that went toward the "applicant share" during Funding Year 2002-2003 (July 1, 2002-June 30, 2003). Canceled checks, receipts, accounts payable records are also examples of sufficient evidence that you paid the "applicant share".**

In summary, identify the eligible products and services you have already received and paid for, all *retroactive* services, and:

- a) List the total results of FRNs in each service category (telecommunications, Internet access and internal connections) respectively in Items 1a. through 3a. Sum these results in Item 4a.
- b) **Attach copies of cancelled checks front and back, or your 2002-2003 or equivalent budget including both revenues and expenses indicating that you have paid the non-discounted portions of the applicable bills.**

Please call me if you have questions at 973-428-7341.

Thank you

**Earl Baderschneider**  
Selective Reviewer

# Exhibit C



**Universal Service Administrative Company**  
Schools & Libraries Division

## COMMITMENT ADJUSTMENT LETTER

March 16, 2004

LeROY STAFFORD  
INDEPENDENCE HIGH SCHOOL  
179 VAN BUREN STREET  
NEWARK, NJ 07105

Re: COMMITMENT ADJUSTMENT

Funding Year: 2002 -2003

Form 471 Application Number: 316756

Dear Applicant:

Our routine reviews of Schools and Libraries Program funding commitments revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, SLD must now adjust your overall funding commitments. The purpose of this letter is to make the adjustments to your funding commitments required by program rules.

## FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the FRNs from your application for which adjustments are necessary. The SLD is also sending this information to your service provider(s), so preparations can be made to implement this decision. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

Please note that if the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the funds disbursed. The amount is shown as Funds to be Recovered. If funds must be recovered, we will be sending your service provider a letter describing the process for recovering these funds in the near future, and we will send a copy of the letter to you. If the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount.

## TO APPEAL THIS DECISION:

If you wish to appeal the Funding Commitment Decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

- ✓ 1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
- ✓ 2. State outright that your letter is an appeal. Identify which Commitment Adjustment Letter you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.
3. When explaining your appeal, copy the language or text from the Commitment Adjustment Letter that is at the heart of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125- Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

## A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter will be a report for each funding request from your application for which a commitment adjustment is required. We are providing the following definitions.

- **FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each request in Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.
- **SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs.
- **SERVICE PROVIDER:** The legal name of the service provider.
- **CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.
- **SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.
- **SITE IDENTIFIER:** The Entity Number listed in Form 471 for "site specific" FRNs.
- **BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.
- **ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has committed to this FRN. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.
- **FUNDS DISBURSED TO DATE:** This represents the total funds which have been paid up to now to the identified service provider for this FRN.
- **FUNDS TO BE RECOVERED:** This represents the amount of Funds Disbursed to Date that exceed the Adjusted Funding Commitment amount. These funds will have to be recovered. If the Funds Disbursed to Date do not exceed the Adjusted Funding Commitment amount, this entry will be \$0.
- **FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides a description of the reason the adjustment was made.



## **Funding Commitment Report for Application Number: 316756**

**Funding Request Number** 835388 **SPIN:** 143024755

**Service Provider:** Diversified Computer Solutions, Inc

**Contract Number:** 10768

**Services Ordered:** INTERNET ACCESS

**Site Identifier:** 227606 INDEPENDENCE HIGH SCHOOL

**Billing Account Number:**

**Adjusted Funding Commitment:** \$0.00

**Funds Disbursed to Date:** \$17,887.50

**Funds to be Recovered:** \$17,887.50

**Funding Commitment Adjustment Explanation:**

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.

**Funding Request Number** 835401 **SPIN:** 143024755

**Service Provider:** Diversified Computer Solutions, Inc

**Contract Number:** 10769

**Services Ordered:** INTERNET ACCESS

**Site Identifier:** 227606 INDEPENDENCE HIGH SCHOOL

**Billing Account Number:**

**Adjusted Funding Commitment:** \$0.00

**Funds Disbursed to Date:** \$5,724.00

**Funds to be Recovered:** \$5,724.00

**Funding Commitment Adjustment Explanation:**

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.

Funding Request Number 835419 SPIN: 143026575  
Service Provider: Independent Computer Maintenance, LLC  
Contract Number: 10770  
Services Ordered: INTERNAL CONNECTIONS  
Site Identifier: 227606 INDEPENDENCE HIGH SCHOOL  
Billing Account Number:

Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date: \$34,344.00  
Funds to be Recovered: \$34,344.00

Funding Commitment Adjustment Explanation:

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.

Funding Request Number 835428 SPIN: 143024755  
Service Provider: Diversified Computer Solutions, Inc  
Contract Number: 10771  
Services Ordered: INTERNAL CONNECTIONS  
Site Identifier: 227606 INDEPENDENCE HIGH SCHOOL  
Billing Account Number:

Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date: \$0.00  
Funds to be Recovered: \$0.00

Funding Commitment Adjustment Explanation:

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.

Funding Request Number 835450 SPIN: 143026575

Service Provider: Independent Computer Maintenance, LLC

Contract Number: 10772

Services Ordered: INTERNAL CONNECTIONS

Site Identifier: 227606 INDEPENDENCE HIGH SCHOOL

Billing Account Number:

Adjusted Funding Commitment: \$0.00

Funds Disbursed to Date: \$160,090.74

Funds to be Recovered: \$160,090.74

Funding Commitment Adjustment Explanation:

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.

# Exhibit D



Independence: A Family of Services, Inc.

*"Providing a pathway where there was none."*

Administrative Office:  
179 Van Buren St.  
Newark, NJ 07105  
phone: 973-589-0959, fax: 973-589-1519  
www.independencefamilyservices.org

Timothy L. Carden, Chairperson  
Guy McCombs, Vice Chairperson  
Dudley Benoit, Treasurer  
Mildred Crump, Secretary  
Margaret L. Woods, President/CEO  
Sandra Bograd, Member  
Steven Brissel, Member

May 13, 2004

USAC  
Letter of Appeal  
Schools and Libraries Division  
Box 125-Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

Re: **Commitment adjustment**  
**Funding Year: 2002 – 2003**  
**Form 471 Application Number: 316756**

Dear Sirs:

This correspondence is in response to the subject letter dated March 16, 2004.

The individual to discuss this appeal with is:

**LeRoy W. Stafford – Chief Financial Officer**  
**Independence High School**  
**179 Van Buren Street**  
**Newark, NJ 07105**  
**Telephone: (973) 586-0959 Fax: (973) 589-1519**  
**E-mail: Luck647Lee@AOL.Com**

The appeals are being made for the Commitment Adjustments for the following:

<b>Billed Entity:</b>	<b>Independence High School</b>
<b>Billed Entity Number:</b>	<b>227606</b>
<b>Form 471 Application Number:</b>	<b>316756</b>
<b>A. Funding Request Number:</b>	<b>835388, 835401, 835419, 835450</b>
<b>SPIN Number:</b>	<b>143024755, 143026575</b>
<b>Contract Number:</b>	<b>10768, 10769, 10770, 10772</b>
<b>Service Order:</b>	<b>Internet Access, Internet Connections</b>

**USAC Adjustment Explanation:**

**"After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans**

among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full".

**Response:**

I am unaware of what information or entities you reviewed to determine that there were similarities in the Forms 470 and technology plan I submitted. I have not been in contact with any of the providers' clients concerning there's or our participation in the E-Rate program once we were approved. Information which I prepared is based on my background and experience gained through working as an information and financial professional with several major corporations and several consulting organizations providing services to private and governmental organizations. If similarities exist they may exist from understanding basic development, installation and management of an information system to provide various types of information to specific users. At no time did any vendor assist in the development or preparation of any documents submitted to SLD. All contact with potential providers came from their viewing our Form 470 posted on your web site.

Though we received several calls from potential providers, only Diversified Computer Solutions, Inc. (DCS) went beyond the phone inquiry and expressed a desire to meet with us and work with our small (45 to 60 students) minority school. As I indicated in my October 6, 2003 response to questions asked by Mr. Earl Badershneider of SLD, who was performing the Selective Review, we were left with only one provider interested in our school so we accepted their bid. Conversations with DCS only involved equipment appropriate for the school's current and future needs and a schedule to complete the work.

Following the completion of the cabling activity, trying to reach DCS became difficult and we could not get any response to our questions concerning status of the engagement. It was determined that we needed to find another provider once we learned the company had left the area. We became aware of Independent Computer Maintenance LLC (ICM) as we were seeking a company to provide computer repair and maintenance services for our location other than the school. When we discussed the possibility of them completing the work at the school, they indicated they were not an "E-Rate" provider. They agreed however to complete the project upon our receiving the necessary approval for the change.

In our letter dated August 18, 2003, we requested an operational SPIN change from DCS to ICM for funding request numbers 835419 and 835450. These request numbers were for our internal connections. We received an approval of such change from SLD effective August 25, 2003. Based on the approval, ICM completed the work of installing the necessary equipment. During this phase of the work, they informed me that we did not have internet access available at that time. This was to have been completed by DCS. We know that the T1 line had been provided to the building by Verizon.

On September 29, 2003, we requested an operational SPIN change to SLD to have the provider changed from DCS to ICM for Funding request numbers 835388 and 835401. This was to complete the internet access which had not

been installed by DCS. We never received an approval for this change and learned that DCS had been paid for this work. In reviewing our records, as indicated to Mr. Badershneider during a discussion of the difference in cost during his review, we show no record of invoicing from DCS or payment to them for this work or a copy of a completed "Service Certification" to SLD for the work. Our records do show an amount due to the provider of the service \$2,624.00 representing our ten percent. I don't know the basis for such payment to DCS by SLD. I am in agreement for the reclaiming of any payment(s) made to DCS for the work not performed. ICM however, installed the required internet access at their cost and we have been in discussion concerning how they would be paid.

Following the authorized change in provider, ICM has completed the work DCS had not performed and been paid by us. The school personnel and students are satisfied with the technology we have been able to provide with the assistance of SLD.

We are very concerned about the inferences in your letter of March 16<sup>th</sup> concerning vendor assistance and disagree with them in principle and fact. We feel betrayed by DCS, our original vendor, and had always had an arms length relationship with them as a vendor. Any monies paid to them for work on the internet access should be reclaimed. We however were never billed and out of the loop for this activity. Our relationship with ICM was brought about because of the situation with DCS and their involvement has and is only related to services being provided per the approved SPIN changes. I believe somehow they should receive payment for completing the internet access. We however are in no way able to pay them the ninety percent share that SLD paid DCS.

Though the organization had discussed the possibility of participating in the program in past years, this was the first time at going beyond discussions. I've worked hard at trying to participate in the E-rate program without the help of consultants or others because we can not afford such services. Our community based not-for-profit, which runs the alternative high school, works hard to provide an opportunity for our target population. It is hoped that their ability to benefit from the technology system they currently have with the assistance of SLD will not be destroyed.

Should you require further information, I can be reached per the above.

Sincerely,

  
LeRoy W. Stafford  
Chief Financial Officer

## **Funding Commitment Report for Application Number: 316756**

Funding Request Number 835388 SPIN: 143024755

Service Provider: Diversified Computer Solutions, Inc

Contract Number: 10768

Services Ordered: INTERNET ACCESS

Site Identifier: 227606 INDEPENDENCE HIGH SCHOOL

Billing Account Number:

Adjusted Funding Commitment: \$0.00

Funds Disbursed to Date: \$17,887.50

Funds to be Recovered: \$17,887.50

### **Funding Commitment Adjustment Explanation:**

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.

Funding Request Number 835401 SPIN: 143024755

Service Provider: Diversified Computer Solutions, Inc

Contract Number: 10769

Services Ordered: INTERNET ACCESS

Site Identifier: 227606 INDEPENDENCE HIGH SCHOOL

Billing Account Number:

Adjusted Funding Commitment: \$0.00

Funds Disbursed to Date: \$5,724.00

Funds to be Recovered: \$5,724.00

### **Funding Commitment Adjustment Explanation:**

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.



Funding Request Number 835419 SPIN: 143026575  
Service Provider: Independent Computer Maintenance, LLC  
Contract Number: 10770  
Services Ordered: INTERNAL CONNECTIONS  
Site Identifier: 227606 INDEPENDENCE HIGH SCHOOL  
Billing Account Number:

Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date: \$34,344.00  
Funds to be Recovered: \$34,344.00

Funding Commitment Adjustment Explanation:

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.

Funding Request Number 835428 SPIN: 143024755  
Service Provider: Diversified Computer Solutions, Inc  
Contract Number: 10771  
Services Ordered: INTERNAL CONNECTIONS  
Site Identifier: 227606 INDEPENDENCE HIGH SCHOOL  
Billing Account Number:

Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date: \$0.00  
Funds to be Recovered: \$0.00

Funding Commitment Adjustment Explanation:

After a thorough review, it has been determined that this funding request must be rescinded in full. SLD found similarities in Forms 470 and technology plans among applicants associated with this vendor. This indicates that the vendor was improperly involved in the competitive bidding process. As a result the commitment amount is rescinded in full.